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EXAMINER

PICKARD, ALISON K

ART UNIT PAPER NUMBER

3676

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,313

Applicant(s)

ZHENG, XIAOQING

Examiner

Alison K. Pickard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28-52, 54-76 and 78 is/are rejected.
- 7) ☒ Claim(s) 27, 53 and 77 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 8-17, 19, 20, 22, 23, 30, 34-43, 45, 46, 48, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. 3,819,566 (DE '566).

DE '566 discloses a rotary seal assembly comprising a first member having a seal face and a second member having a sealing face. The first member can be one of a rotor 2 or stator 3. The second member can be the other of a rotor or stator. The first or second member has plural pumping grooves wherein a first set 19 starts proximate a center portion of the sealing face and extends outward while a second set 18 starts proximate the center and extends inward. The first set terminates inward of an outer portion of the sealing face. The second set terminates inward an inner portion of the sealing face. The first and second sets start adjacent each other at the center portion and curve outward and inward, respectively. Each groove has an inside edge and an outside edge curving inwardly. The pumping grooves direct fluid fed to the center simultaneously both inward and outward to provide a uniform fluid film thickness between the

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sealing faces during coning. A feeding groove 20 having a plurality of orifices 21 therein supplies the fluid to the center portion. The orifices are angled

3. Claims 1-4, 8, 9, 11-20, 22, 23, 30, 34, 35, 37-46, 48 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Lebeck (6,213,473).

Lebeck discloses a rotary seal assembly comprising a first member having a sealing face and a second member having a sealing face. The first member can be one of a rotor 40 or stator 42. The second member can be the other of a rotor or stator. The first or second member has plural pumping grooves wherein a first set 96/100 starts proximate a center portion of the sealing face and extends outward while a second set 94/98 starts proximate the center and extends inward. The first set terminates inward of an outer portion 144 of the sealing face. The second set terminates inward an inner portion 154 of the sealing face. The first and second sets start adjacent one another (Fig. 5) or offset from one another (Fig. 6). The first and second sets start adjacent each other at the center portion and curve outward and inward, respectively. Each groove has an inside edge and an outside edge curving inwardly. The pumping grooves direct fluid fed to the center simultaneously both inward and outward to provide a uniform fluid film thickness between the sealing faces during coning. A feeding groove 68 having a plurality of orifices 84 therein supplies the fluid to the center portion.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 5-7 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '566.

DE '566 does not disclose that the feeding groove is discontinuous forming a number of feeding groove sections. This is considered a design choice. Applicant has not stated that changing the shape of the feeding groove such that it has a number of sections solves any stated problem or is for any stated purpose. And, it appears the feeding groove of DE '566 would perform equally as well. See *In re Dailey*, 149 USPQ 47 (CCPA 1966). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the shape of the feeding groove such that it discontinuous and has a number of sections as a matter of choice in design.

6. Claims 21, 24, 25, 47, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebeck.

Regarding claims 21 and 47, Lebeck does not disclose the pumping grooves have a width exceeding their depth. This is considered a design choice. Applicant has not stated that forming the grooves so that their width exceeds their depth solves any stated problem or is for any stated purpose. And, it appears the pumping grooves of Lebeck would perform equally as well.

Regarding claims 24, 25, 50, and 51, Lebeck does not disclose that feeding groove has a rounded or square bottom. This is considered a design choice. Applicant has not stated that forming the feeding groove with a rounded or square bottom solves any stated problem or is for any stated purpose. And, it appears the feeding groove of Lebeck would perform equally as well.

Therefore, it would have been obvious for one of ordinary skill in the art at the time the

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invention was made to modify the pumping grooves so that their width exceeds their depth and the feeding groove with a rounded or square bottom as a matter of choice in design.

7. Claims 26, 28, 52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebeck in view of Lindeboom (3,751,045).

Lebeck discloses a rotary face seal assembly wherein one member 42 has a holder 58 and spring 56. However, the spring does not bias the first and second members apart. Lindeboom teaches a rotary face seal assembly wherein one member 30 has a holder 48 and a spring 52 that biases the first and second members apart. This arrangement provides a normally open, rather than closed, seal assembly. Keeping the assembly open would reduce wear during start up. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made modify the holder, member, and spring of Lebeck such that the spring biases the first and second members apart as taught by Lindeboom to reduce wear on the members during start-up.

8. Claims 1, 29, 30 and 55-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (5,609,342) in view of Lebeck.

Peterson discloses a rotary face seal assembly comprising a stator 3 having a sealing face and a rotor 2 having a sealing face. The stator is mounted on a holder 8 that allows the stator to cone negatively or positively with respect to the rotor. The stator or rotor can have pumping grooves 21 in the sealing face. Peterson does not disclose that the grooves are partitioned into first and second sections or that the rotor or stator has a feeding groove and orifice. Lebeck teaches a rotary face seal assembly wherein the sealing faces of the rotor or stator comprise plural pumping grooves having a first section and second section and a feeding groove having

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plural feeding orifices. The second section of pumping grooves 96/100 starts proximate a center portion of the sealing face and extends outward while the first section 94/98 starts proximate the center and extends inward. The first set terminates inward of an outer portion 144 of the sealing face. The second set terminates inward an inner portion 154 of the sealing face. The first and second sets start adjacent one another (Fig. 5) or offset from one another (Fig. 6). The first and second sets start adjacent each other at the center portion and curve outward and inward, respectively. Each groove has an inside edge and an outside edge curving inwardly. The pumping grooves direct fluid fed to the center simultaneously both inward and outward to provide a uniform fluid film thickness between the sealing faces during coning. The feeding groove 68 having a plurality of orifices 84 therein supplies the fluid to the center portion. Lebeck teaches that this configuration creates two different gas seals and causes the gas pressure to distribute itself across the seal faces so that a desired stiffness is achieved. This also allows ensures a seal across the faces whenever there is deflection in one of the faces. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the sealing faces of Peterson with the groove configurations as taught by Lebeck to ensure an effective seal and the proper film stiffness during sealing face deflection.

Regarding claims 59, 61, 64 and 73, neither Peterson nor Lebeck disclose that the feeding groove is discontinuous with plural sections, that the orifices are angled, or that the pumping grooves have a width exceeding their depth. All are considered design choices. Applicant has not stated that making the groove discontinuous, the orifices angled, or the pumping grooves with a width exceeding their depth solve any stated problems or are for any particular purposes. See *In re Dailey*, 149 USPQ 47 (CCPA 1966). Therefore, it would have been obvious for one of

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ordinary skill in the art at the time the invention was made to make the groove discontinuous, the orifices angled, and the pumping grooves with a width exceeding their depth as a matter of choice in design.

9. Claims 76 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Lebeck as applied to claim 56 above, and further in view of Lindeboom.

Peterson discloses a spring. However the spring does not bias the stator and rotor apart. Lindeboom teaches a rotary face seal assembly wherein one member 30 has a holder 48 and a spring 52 that biases the first and second members apart. This arrangement provides a normally open, rather than closed, seal assembly. Keeping the assembly open would reduce wear during start up. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made modify the holder, member, and spring of Peterson such that the spring biases the first and second members apart as taught by Lindeboom to reduce wear on the members during start-up.

Allowable Subject Matter

10. Claims 27, 53, and 77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 4-9-03 have been fully considered but they are not persuasive.

In response to applicant's argument that DE '566 fails to provide a uniform fluid film thickness between sealing faces during coning effects, a recitation of the intended use of the

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claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, DE '566 discloses all of the claimed subject matter required by the claims. Applicants have not provided any further limitations or description that distinguishes the claimed rotary seal from that in DE '566. Therefore, the rotary seal of DE '566 is considered to provide a uniform fluid film thickness between sealing faces during coning effects. Also, it is known in the art to use pumping grooves to provide a uniform fluid film even during coning. For example, see Shimizu '943 (abstract) or Gardner '604 (e.g. columns 1 and 3). This is further supported by Applicants' specification page 5, lines 5-11. Applicants state that the uniform fluid film is provided because of the inner and outer pumping grooves.

Regarding Applicants' argument that Lebeck does not disclose pumping grooves extending inward and outward, the examiner disagrees. As seen in Figures 5 and 6, Lebeck discloses a first set of pumping grooves that starts near the center portion (at 100 or 128) and extends outward (to 96 or 124) and a second set of pumping grooves that starts near the center portion (at 98 or 126) and extends inward (to 94 or 122). Lebeck meets the limitations required by the claims.

Finally, please note that Gardner (5,769,604) reads on a significant number of claims present in the application. Gardner discloses first and second pumping grooves starting near the

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center of the sealing face and extending outward and inward (resp.), a feeding groove, a holder that allows one of the members to move in response to coning, feeding orifices, etc.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882. The examiner can normally be reached on M-F (9-6:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-8729327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

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A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight
SPE
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AP
June 30, 2003